

REMARKS

An Office Action has been issued in the subject application in which:

- claims 1–5, 12, 13, 19, and 20 were rejected under 35 U.S.C. § 102;
- claims 6-9 and 14-18 were rejected under 35 U.S.C. § 103; and
- claims 10 and 11 were deemed allowable.

First of all, Examiner Lee is thanked for his time, effort, and expertise in carefully examining the application.

Summarizing the Amendment, claims 3-5, 8, 9, and 20 have been canceled, and claims 1-3, 6-8, 10, 12, 14, 16, 17, 19, and 20 have been amended and new claims 21 and 22 have been added to more distinctly claim and particularly point out the subject matter which Applicant regards as the invention. Claims 1, 2, 6, 7, 10-19, 21, and 22 remain in the application.

Each of the rejections is traversed hereunder in the order presented in the Office Action. Reconsideration and reexamination of the subject application as amended are respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 102

Claims 1-5, 12, 13, 19, and 20 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,849,963 to Kawano et al.

Claims 3-5 and 20 have been canceled, rendering the rejections thereon moot. Applicant traverses the remaining rejections.

Requirements for Anticipation

The Federal Circuit stated in *W.L. Gore & Associates v. Garlock, Inc.* [721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983)] that an anticipation rejection under 35 U.S.C. § 102 “requires the disclosure of a single prior art reference of each element of the claim under consideration.” It is not enough, however, that the prior art reference disclose all the claimed elements in isolation. Rather, as stated by the Federal Circuit, “[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim” [*Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984)]. Likewise, the Court of Customs and Patent Appeals (CCPA) stated in *In re Wilder* [429 F.2d 447, 166 USPQ 545, 548 (C.C.P.A. 1976)]:

Simply stated, a prior publication or patent description will be considered as anticipatory when its disclosure is at once specific and enabling with regard to the particular subject matter at issue. In effect, a prima facie case is made out whenever a reference is shown to contain a disclosure which is specific as to every critical element of the appealed claims.

In other words, a prima facie case of anticipation is established when the Patent Office provides:

- a) a single reference
- b) that teaches or enables
- c) each of the claimed elements (arranged as in the claim)
- d) expressly or inherently
- e) as interpreted by one of ordinary skill in the art.

If any one of these elements is not present, the prima facie case of anticipation is not established. In the instant case, it is respectfully submitted that the Kawano et al. patent fails to meet these requirements.

Discussion

Independent claims 1 and 12 have been amended to emphasize an embodiment of FIG. 2 in which the system consists of the two antennas without any additional elements. ***Such an embodiment of the system does not require any additional signal processing components or power supplies.*** Such an embodiment is highly versatile and can be implemented at any number of difficult installation sites. In addition, such an antenna-only embodiment is not concerned with communication protocols because it is simply a “signal in, signal out” scenario, with no signal processing or amplification.

The cited reference, U.S. Patent No. 4,849,963 to Kawano et al. disclose a cellular radio telephone system 10 with an antenna system 20, 21 and an amplifier 22. The amplifier 22 includes a number of components used to process the signal between the antennas 20, 21.

It is respectfully submitted that Kawano et al. fail to teach or suggest the telecommunication system of claim 1 which consists only of a pair of antennas and nothing else. The Kawano et al. patent fails to teach or suggest any embodiment consisting of only two antennas, or the corresponding method of receiving and transmitting signals with only two antennas as recited in claim 12.

It is, therefore, respectfully submitted that claims 1 and 12 are patentable and in condition for allowance.

Claim 2 depends from claim 1, and claims 13 and 19 depend from claim 12. For reasons analogous to the patentability of claims 1 and 12, it is respectfully submitted that these dependent claims are also patentable.

REJECTIONS UNDER 35 U.S.C. § 103

Claims 6–9 and 14–18 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,849,963 to Kawano et al. in view of U.S. Published Application No. 2003/0050099 to Izadpanah.

Claims 8 and 9 have been canceled, rendering the rejections thereon moot. Applicant traverses the remaining rejections.

Requirements for Obviousness

The Federal Circuit stated in *In re Oeticker* [977 F.2d 1443, 24 USPQ 2d 1443 (Fed. Cir. 1992)], “[i]f examination at the initial stage does not produce a prima facie case of unpatentability, then without more the applicant is entitled to grant of the patent.” The CCPA interpreted prima facie obviousness in *In re Lintner* [458 F.2d 1013, 173 USPQ 560, 562 (C.C.P.A. 1972)] as follows:

In determining the propriety of the Patent Office case for obviousness in the first instance, it is necessary to ascertain whether or not the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the references before him to make the proposed substitution, combination or other modification.

In *In re Rinehart* [531 F.2d 1048, 189 USPQ 143 147 (C.C.P.A. 1976)], the CCPA added that the prima facie case requires that the teachings of the reference “appear to have suggested the *claimed subject matter*.” In view of these decisions, a prima facie case of obviousness is established when the Patent Office provides:

- a) one or more references
- b) that were available to the inventor and
- c) that teach
- d) a suggestion to combine or modify the references,

- e) the combination or modification of which would appear to be sufficient to have made the claimed invention obvious to one of ordinary skill in the art.

If any one of these elements is not present, the prima facie case of obviousness is not established. In the instant case, it is respectfully submitted that the Kawano et al. and Izadpanah patents fail to meet these requirements.

Discussion

Claims 6 and 7 depend from amended claim 1 as discussed above, and claims 14-18 depend from amended claim 12 discussed above.

The Kawano et al. patent is discussed above. The Izadpanah reference discloses a base repeater node with a three-way splitter 308. The Izadpanah reference fails to teach or suggest a telecommunication system consisting of a pair of antennas without any signal processing components connected therebetween.

Therefore, both of the cited references, either alone or in combination, fails to teach or suggest a communication system consisting of a pair of antennas as recited in claim 1 or a method consisting of receiving and transmitting a signal without any signal processing as recited in claim 12. Accordingly, it is respectfully submitted that the Patent Office has not established a prima facie case of obviousness; that is, the Patent Office has failed to provide one or more references that teach a suggestion to combine or modify the references, with the combination or modification being sufficient to have made the claimed invention obvious to one skilled in the art.

It is, therefore, respectfully submitted that claims 6, 7, and 14-18 are patentable and in condition for allowance.

ALLOWABLE CLAIMS

Claims 10 and 11 were deemed allowable. Claim 10 has been rewritten in independent form, including all of the limitations of the base claim and any intervening claim. Claim 11 depends from claim 10.

It is respectfully submitted that claims 10 and 11 are in condition for allowance.

NEW CLAIMS

Claims 21 and 22 have been added to more distinctly claim and particularly point out the subject matter which applicant regards as the invention.

Claim 21 is substantially analogous to allowable claim 10 in that a plurality of amplification sections are disposed between a splitter and a plurality of shadow antennas.

Claim 22 is a method claim corresponding to the allowable feature of amplifying a plurality of signals provided to a plurality of shadow antennas.

For reasons analogous to those provided in the Office Action in relation to the allowability of claim 10, it is respectfully submitted that claims 21 and 22 are patentable and in condition for allowance.

CLOSING REMARKS

It is respectfully submitted that the subject application, including claims 1, 2, 6, 7, 10-19, 21, and 22, is in condition for allowance. Confirmation of the allowance is respectfully requested.

The Examiner is invited to contact the undersigned if he believes there are any issues which remain, preventing the allowance of the application.

Respectfully submitted,

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